

REGISTER NOW!

South Dakota Real Estate Commission Educational Caravan – Spring 2006

Pierre - Ramkota – May 15th
Rapid City - Ramkota – May 16th
Spearfish – Holiday Inn – May 17th
Sioux Falls - Ramkota – May 22nd and 23rd
Watertown - Ramkota – May 24th
Aberdeen – Ramkota – May 25th

Instructor: Marie Spodek

Course: The New M&M's in Real Estate: Mold & Meth Disclosure and What Every Real Estate
 Licensee Should Know About Homeowners Insurance - 6 required hours

Registration Fee: \$50.00 (including cookies during morning break)

Class begins at 9:00 a.m. (Walk in registration begins at 8:15 a.m.)

For access assistance, handicapped persons may call the Commissions office at (605) 773-3600

Pre-registration is required to guarantee admission and is **STRONGLY ENCOURAGED**. Failure to register may prohibit your attendance if the class is full. The Commission will retain \$10 of any refunded registration fee. Please complete and mail the registration form below along with the registration fee to the S.D. Real Estate Commission at 221 West Capitol, Suite 101, Pierre SD 57501. Registration deadline is 5 days prior to each session.

✂ _____

Name _____ License Number and Type _____

 (Mailing Address) (City) (State) (Zipcode) (Phone)

Please check which you would like to attend.

☐ Pierre – May 15th

☐ Rapid City – May 16th

☐ Spearfish – May 17th

☐ Sioux Falls – May 22nd

☐ Sioux Falls – May 23rd

☐ Watertown – May 24th

☐ Aberdeen – May 25th

Registrations received by fax will NOT be accepted.

A Letter From the Chairman



AGENCY. Who are you representing? Do they know it? A friend of mine and I were talking the other day when Agency came up. He said that if we surveyed all the buyers who had just come out of a closing and asked them if they were 'represented' 70% wouldn't get it right. If he is correct then we are not doing our job; we are not going over the forms and explaining them correctly. This may be a local issue but I doubt it! Buyers just want to buy a home. Period. It is our responsibility to explain what EXCLUSIVE BUYER'S AGENCY means. If the auditors questioned your clients, would they know if you were their exclusive buyer's agent? Why do I ask? Because disclosure seems to be one of our biggest problems.

As agents, it's our responsibility to understand the laws pertaining to disclosure and to fully explain that concept to our buyers. Do your buyers buy from builders, FSBOs or other agents rather than buying through you? Than you haven't properly explained to them their duty of loyalty to you and that this is a two way street. If you're not going to explain Exclusive Buyer's Agency then use a NON-EXCLUSIVE BUYER'S AGENCY agreement (this form can be downloaded from the Commission's website) so the buyer can pick and choose and buy from whomever they wish. If you're not doing your part, you don't have a right to complain.

On to new and progressive ideas: at the last commission meeting we invited all our educational instructors to Pierre to review the proposed simulation exercise testing for new licensees. Please see the related article in this newsletter.

By the way, can you do an estimated closing statement for your client? If so, an estimated closing statement will assist the client in understanding the final closing statement.

The weather's getting warmer and so are the buyers - so happy selling. If you can't find anything to sell, sell one of my listings; my sellers would be eternally grateful.

Until next time,
Charlie

From the Directors Desk



Spring has sprung! The recent March snowfalls reminded me of the early springs I experienced as a child growing up in this great state. (Hopefully, I have not revealed my age!) The moisture is desperately needed and we can look forward to the spring blossoms.

Speaking of looking forward, the Commission recently viewed a sampling of questions from the new broker exam being proposed to South Dakota real estate candidates. Dr. Larry Fabrey, project director for Applied Measurement Professionals, provided a presentation to the Commission at its March meeting. In addition, South Dakota real estate educators were also given an opportunity to meet with the Commission and Dr. Fabrey. Please refer to the accompanying article regarding these meetings.

Also, the Commission presented former Commission Member Loren Anderson with a plaque recognizing him for his years of service to the Commission. Loren vacated his Commission seat in October, but scheduling conflicts and inclement weather prevented this presentation from taking place earlier. Again, I would personally like to thank Loren for his dedication to the Commission and the citizens of South Dakota.

The Spring Caravan is just around the corner. Be sure to register and note the locations. Marie Spodek will discuss the timely topics of mold, meth and property insurance. These are topics that apply to all our licensing categories, so please try to fit this seminar into your schedule.

The Commission office has been receiving calls from licensees wondering if they still need to use the lead-based paint disclosure since the disclosure is included in the South Dakota seller's property condition disclosure statement. The lead-based paint disclosure is a federal requirement and South Dakota disclosure laws and disclosure form do not supersede this federal regulation. Therefore, if a dwelling was built prior to

1978, a lead-based paint form must be completed by the seller.

There are several new real estate offices that have been established recently which has raised the question as to the status of the listing and buyer agency agreements. Responsible brokers, I strongly encourage you to have a written agreement in place with your associates as to how you handle these real estate contracts when an associate transfers to another office. It will make the transition more amicable and makes good business sense.

Governor Rounds has signed two bills that fall under the real estate brokerage act. House Bill 87 amends SDCL 36-21A-71 to require a broker to obtain prior written consent to advertise or market property on behalf of an owner. House Bill 155 amends SDCL 36-21A-46.1 to permit salespersons and broker associates within the same firm to form a business corporation or limited liability company for the sole purpose of receiving a commission. These bills will become law on July 1, 2006.

DjN

SDREC Seeking Input on New Trust Account Course

The SDREC has developed a trust account course that will include information on accounting techniques, license law/administrative rule requirements, audit procedures and other vital information. All responsible brokers, property managers, auctioneers and any office staff that handle trust accounts are urged to take this training. Two different courses will be offered – one specifically for property managers, the other for brokers and auctioneers.

The staff is ready to take this training on the road - but first, we need your input! These courses will be scheduled depending on where the most interest is generated. Contact the SDREC office at (605) 773-3600 and let us know if you would like to have this training offered in your area.

Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter, excluding cases currently on appeal. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Wade Druin, Volin, Broker (Expired License).

Letter of Reprimand. License will not be renewed unless completion of 6 hours of continuing education on real estate contract law, 6 hours on real estate agency law and 6 hours on real estate license law.

Mel Dreyer, Rapid City, Broker Associate.

Findings of Fact, Conclusions of Law, and Order that Mr. Dreyer's actions constitute unprofessional conduct in several ways. Mr. Dreyer failed to disclose his interest in a property to a client, under SDCL 36-21A-71 (36). Mr. Dreyer's actions constituted substantial and willful misrepresentation with respect to a transaction which misrepresentations were injurious to his clients, under SDCL 36-21A-71(3) and further, made false promises or advertisements of a character such as to influence, persuade or induce a party to a transaction to the party's injury or damage, under SDCL 36-21A-71(4). Dreyer further engaged in unprofessional conduct under SDCL 36-21A-71 (15, 32, 31) by engaging in conduct which constitutes dishonesty and fraudulent conduct; committed an act constituting or demonstrating bad faith, incompetency or fraudulent dealings; and failing to deal fairly with all parties to a transaction. Mr. Dreyer's real estate broker's license is suspended for one (1) year with ten (10) months of the suspension stayed on the condition of payment of penalty of \$2500 and costs of \$20,560.74. Mr. Dreyer's suspension shall begin June 1, 2006 and end August 1, 2006.

Instructors Meet with AMP, Commissioners

By Karen Callahan, Education Director

Pre-licensing instructors from around the state met in Pierre for a presentation from Dr. Lawrence Fabrey, AMP Vice President,

Measurement Research. The meeting provided instructors with an opportunity to offer input to the Commission regarding AMP's proposal to integrate simulation exercises into the broker exam. The Georgia Real Estate Commission has recently started using this new exam format. South Dakota, as well as other states served by AMP, is considering a similar exam.

Instructors were able to see first-hand how the simulation exercises work and to discuss the implementation of the new exam with members of the Commission. The current format of multiple choice questions would still be utilized in the new exam, but an additional portion would include the simulation exercises. These exercises test the candidates' decision-making skills in applying what they've learned in the pre-licensing course to real-life situations.

The consensus among the group was that the new exam would offer a more comprehensive assessment of a candidate's reasoning skills as well as recall of terminologies and definitions. The Commission will continue to work with Dr. Fabrey and AMP on the new test format.

AMP has posted sample simulation exercises on their website under the Georgia Real Estate Exam section. To view these exercises, go to www.goamp.com, click "Candidates" and follow the real estate links to the Georgia broker examination menu. Choose "List Related Materials" to view the sample exercises.

World's largest online real estate auction nets \$60 million in new trend

(Press Release from the National Auctioneers Association)

Overland Park, Kansas – An auction believed to be the largest online sale of real estate in the world recently earned more than \$60 million for a Florida community that earlier considered taking a private treaty sale offer of just \$12 million for the properties. The sale shows the success of the auction method and the new trend of online real estate auctions, observers said.

Two years ago, 1900 lots of tax delinquent land were available from the city of North Port, Florida for \$1,000 a piece. During a recent online real estate auction, the

lots sold for an average of \$32,000 each with the most expensive lot being sold for just under \$80,000. In the recent past these lots may have been sold only by traditional real estate listing or by traditional auction alone, but North Port-area officials chose to sell by using an auction company that sold the lots on the Internet, gaining a wide audience with strong marketing. The auction was conducted by Fisher Auction Company, the firm selected by the city and county to sell the lots that came into public ownership after owners failed to pay property taxes.

More than 200 additional lots will be available during a final online auction running Thursday, March 23rd through Tuesday, March 28. While a final live auction of remaining properties was scheduled, officials now believe the last auction will be unnecessary.

"The way things are going, all of the lots may sell out completely," said County Manager of Policies and Projects Terry Gilbert in an interview with the Sun and Weekly Herald.

According to County Commissioner Joe Thaxton, the lots were put on the tax delinquent rolls between 1999 and 2004. At one point, developers offered Sarasota county \$12 million for the lots. The county was heavily criticized by residents, government officials and local media for not taking the offer at the time.

Rather than selling the entirety to a single developer, the county commissioners decided to give community members and regular citizens the opportunity to purchase a lot during the online auction.

While the net proceeds of the online auction will be split between Sarasota County (45%) and the city of North Port (55%), the lots are also expected to generate an additional yearly property tax revenue of approximately \$235,000 for the county, \$281,000 for North Port and \$452,000 for the school district. Fifty of the original lots were set aside from the auction for future use by the school district.

Anyone interested in obtaining information about the lots or the auction process can visit the city's Web site at www.cityofnorthport.com, the county's Web site at www.scgov.net or Fisher's Web site at www.fisherauction.com.

EPA Proposes Cleanup Rules

with permission of ARELLO

In an effort to reduce lead poisoning in children, the U.S. Environmental Protection Agency (EPA) has proposed regulations for contractors when working in housing with lead-based paint.

Anyone who does renovation work for compensation will fall under the new rules. Contractors must undergo training, become certified, maintain work records, and follow safe work practices. Such practices include containing the work area, covering the floor with plastic sheeting, removing or covering all furnishings and rugs with plastic sheeting, closing vents, and cleaning visible dust from the work area with a HEPA-equipped vacuum or damp cloth. The incremental cost of compliance with the work practices regulations has been estimated by the EPA at US\$25.00 for small jobs and US\$500.00 for major projects.

Continuing Education Corner

By Karen Callahan, Education Director

Online, home study, distance education, independent study, CDROM – these are just a few of the words that describe educational courses offered in a format other than the standard classroom presentation. So, what do they mean and is there a difference?

Continuing education courses approved by the SDREC office for South Dakota licensees are divided into three categories based on the method of delivery - classroom, distance learning or independent study.

There is some confusion regarding the difference between distance learning and independent study as well as the rules/restrictions regarding these courses.

Distance education is defined as a course in which “the instructor and student are in physically separate locations, and instructional methods include interactive video-based instruction, computer conferencing, interactive audio, interactive computer software, and internet-based instruction.” CDROM courses and those taken via the internet are generally considered as distance education.

Independent Study is defined as “a course in which no interaction with an instructor is planned or implied as part of the learning process.” Videocassettes and books would be considered as independent study.

Most of the rules governing continuing education apply to both distance education and independent study courses with one major difference. A maximum of 6 hours of independent study can be claimed during each licensing period, but there is no limit on distance education courses. A licensee can even complete the entire CE requirement via distance education!

If you are interested in taking a distance learning or independent study course, but are unsure if the course has been approved, visit the SDREC website www.state.sd.us/sdrec to see the list of approved continuing education courses. This list is divided into the three course formats – classroom, distance education and independent study. New course information is added weekly.

Latest Court Decisions

The following case reports are from the Assoc. of Real Estate License Law Officials (ARELLO) 2005 Annual Case Law Report

Misrepresentation – Reliance Land v. Dixon, Tenn. App. LEXIS 402 - Tennessee Court of Appeals

Facts: Land, the highest bidder on a property, sued the auctioneer and real estate broker, Dixon, for misrepresentation and professional negligence because he failed to disclose his ownership interest to Land before or during the auction. Furthermore, Land also alleged that Dixon issued a brochure containing an aerial photograph of the property which described it as “prime property.” The property on the brochure, however, was not included in the property conveyed at the auction. Also, the brochure stated, “Selling by Order of Trustee Robert L. Brown,” but there was no actual “order” requiring the sale. Land also complained that Dixon broke the rules of the auction by allowing a new bid after the two-minute final bid period had lapsed. After the auction, but before he actually bought the property, Land learned the truth about Dixon’s ownership, the incorrect information in the brochure, and the violation of the rules of the auction. In spite of this, Land purchased the property but sued Dixon. The

trial court dismissed the suit and Land appealed.

Issue: Whether Dixon can be held liable for misrepresentation if Land did not rely on Dixon’s false or misleading statements and whether Dixon can be held liable for professional negligence.

Held: Affirmed in part; vacated and remanded in part. The court held that Land voluntarily entered into a written contract for purchase of the property and voluntarily closed on the contract with full knowledge of the facts that he then alleged as being misrepresentation and negligent conduct. Hence, the court held that Land may not thereafter recover on a misrepresentation theory. The court held that Land should be allowed to press his claim for professional negligence against Dixon because by allegedly violating the two-minute rule, Land drove the price of the property up to Dixon’s detriment.

Misrepresentation – Liability for Misplaced Signs Dinsmore v. Gateway Realty of McCook, Inc. 205 Neb. App. LEXIS 95 - Nebraska Court of Appeals

Facts: The sellers listed their property and completed a disclosure statement which provided that the “original modular structure has been completely remodeled and added to.” The licensee showed the buyers the residence and informed them that the residence was a modular structure with additions. After purchasing the property, the buyers heard wood splintering in the kitchen ceiling. An engineer inspected the property and found that the residence consisted of an old single-wide mobile home with several additions and modifications. The buyers filed suit against the licensee alleging fraudulent concealment, fraudulent misrepresentation, or negligence. The trial court granted summary judgment in favor of the licensee and the buyers appealed.

Issue: Whether an issue of material fact existed regarding licensee’s knowledge that the residence was a mobile home and not a modular home.

Held: Affirmed. Dismissal was appropriate because there was no evidence showing that the licensee knew that the representation in the seller’s disclosure statement was false. To recover on a fraudulent misrepresentation claim, one must show that a false representation was made and that the person making the representation knew it to be false. The same standard applies

for fraudulent concealment. The licensee did not violate the Seller Property Condition Disclosure Statement statute because there were no facts demonstrating the licensee had knowledge of any error, inaccuracy, or omission by the sellers. The court determined that there is no issue of material fact as to whether the licensee committed negligent misrepresentation because the licensee was not required to review every assessor's record and had no duty to verify the accuracy of the seller's statements.

New Licensees

Broker

Carter, Kathy – Merville, IA
Christensen, Robert T – Presho
Clarke, Jay N – Ripon, WI
Fay, Gregory W – Belgrade, MT
Glasford, Tara L – Canton
Hammontree, Pamela S – Seymour, TN
Harms, Steven J – Le Mars, IA
Jarrett, Lori E – Kersey, CO
Lewellen, Todd A – Paron, AR
Luft, Ted – Little Rock, AR
McNutt, Kelly R – Elmore City, OK
Merkle, Bret C – Harrisburg
Nooney, John K – Rapid City
Olson, Richard D – Bismarck, ND
Snook, Clinton D – Hulett, WY
Spies, Kenneth J – Hinton, IA
Trautman, Clyde W – Fargo, ND
Woelk, William E – Colorado Springs, CO

Broker Associates:

Anderson, Casey – Parker
Bennington, Joseph E – Rapid City
Blue, Ann E – Aberdeen
Bohlen, Jr., Earl D – Milbank
Chapin, Dewey M – Marvin
Christopulos, Kathleen A – Sioux Falls
Dargatz, Rhonda – Watertown
Dominguez, Jan O – Rapid City
Erickson, Kimberly J – Keystone
Ericson, Nichole J – Alcester
Escott, Amy M – Rapid City
Gill, Jodi L – Elk Point
Grimm, Alice E – Rapid City
Grimsley, Gina R – Sioux City, IA
Haeder, Micheal J – Rapid City
Hartsell, Hubert "Lynn" – Canton
Henley, Charlotte A – Huron
Hess, Chad E – Sioux Falls
Island, Daniel P – Rapid City
Iwan, Lanny K – Rapid City
Jensen, Russell E – Vermillion
Johnson, Scott D – Pierre

Kiesow, Jennifer A – Sioux Falls
Kirk, Matthew D – Spearfish
Kubo, Ryan J – Hot Springs
Kunde, Curtis – Milbank
Larsen, Eric R – Hartford
Ludens, Sheila J – Sioux Falls
Mueller, Darin R – Sioux Falls
Nussbaum, Craig L – Garretson
Nygaard, Shelby L – Spearfish
Phillips, Stacey R – Sioux Falls
Pollman, Michael H – Valley Springs
Popkes, Terry L – Lake Norden
Songstad, Bret L – Sioux Falls
Tesch, Roger D – Estelline
Tyler, Louann D – Aberdeen
VanLith, Nicholas J – Milbank
Willmore, Edwin F – Sioux Falls
Woolridge, Gregory R – Black Hawk

Home Inspectors

Grogan, Gerald J – Medford, OR
Huber, Rick – Alcester
McCue, Thomas – Volin
Worthington, Tate – Sioux Falls

Property Manager

Conroy, Darla F – Lead
Mayclin, Cleone – Rapid City
Olson, Dustin – Sioux Falls
Simpson, David M – Rapid City
Simpson, Jayne – Rapid City
Vaplon, Daniel W – Belle Fourche
Vaplon, Janice J – Belle Fourche
Wheeler, Trina – Piedmont

Salesperson

Curley, James R – Roland, AR
Fernholz, Brian S – Madison, MN
Griffith, Toby L – Pompeys Pillar, MT
Kimmel, Thomas A – Sioux City, IA
Olmstead, Debra A – Sioux City, IA
Orke, Donald N – Plymouth, MN
Semple, Jeraldeen L – Sioux City, IA
Shreve, Nelda J – Elmore City, OK
Williams, Shannon M – Redfield
Winter, Michael D – Luverne, MN

Timeshare Agent

Mauldin, Casey M – Deadwood
Merrill, Rosemary – Deadwood
Mosher, Andrew P – Deadwood

Residential Rental Agent

Cook, Abbey S – Sioux Falls
Hofer, Lindsay R – Sioux Falls
Jones, Hollie G – Madison
Weller, Rick A – Spearfish
Wiens, Mary L – Sioux Falls

Tips on Home Inspections

Here are some tips when helping buyer clients with home inspections:

- ❖ Inform buyer that any promise to purchase should be made conditional to a building inspection.
- ❖ Provide names of several licensed home inspectors.
- ❖ An agent must always avoid placing himself or herself in a conflict-of-interest situation.
- ❖ Avoid guaranteeing service quality.
- ❖ An agent should never advise the buyer to waive the inspection condition.
- ❖ The buyer should evaluate report with expert's explanations if necessary.
- ❖ Use the report to negotiate or get seller to do work. Put any agreement in writing.

South Dakota Real Estate VIEW

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 E. Capitol, Pierre, SD 57501, 605-773-4608.

Appraiser Certification Program Mission – Purpose – Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

Administrative Rule Changes

Key revisions and a complete set of the Administrative Rules regarding appraisers are available on the Appraiser Certification Program Website: www.state.sd.us/appraisers.

USPAP Q & A

Vol. 8, No. 2, February 2006

Purpose of the Workfile

Question: What is the purpose of an appraiser's workfile?

Paper Copies of Electronically Transmitted Reports

Question: Are appraisers required by USPAP to retain a paper copy of electronically transmitted appraisal reports?

Electronic Workfile Storage

Question: Recently I have considered maintaining only electronic workfiles (i.e., saving only electronic versions of my reports and supporting data, and scanning any paper documents used so that copies may be stored on electronic media). Is this prohibited by USPAP?

Time Period to Retain Workfiles

Question: How long do I have to retain a workfile for an assignment? (Note South Dakota Administrative rules supersede the retention requirement of USPAP. See ARSD 20:14:07:01.)

Minimum Workfile Retention

Question: My state appraisal board is asking me to send a copy of the workfile for an appraisal I performed eight years ago. Since I provided no testimony in the assignment, I was only required to maintain access to the workfile for five years. Given that this time period has expired, can the state board still take action in this case?

Jurisdictional Exception

Question: My state law requires an appraiser to retain workfiles for three years after the valuation date. Is this an example of a jurisdictional exception?

Vol. 8, No. 3, March 2006

Supplemental Standards Defined

Question: What are supplemental standards?

Supplemental Standards Described

Question: What makes a requirement a supplemental standard?

When Supplemental Standards Diminish USPAP Requirements

Question: Can a supplemental standard require less than USPAP?

Supplemental Standards Rule and Specific Assignment Obligations

Question: I was told that the SUPPLEMENTAL STANDARDS RULE makes it a violation of the ETHICS RULE if I do not comply with every condition in an assignment that I accept. How can this be? I can't control every possible factor in performing an appraisal. Please explain why this is necessary and exactly what it means.

Answers to the above questions can be found at:

www.appraisalfoundation.org

New Licensees – February/March

Pamela Chronister, State-Registered – Sioux Falls, SD

Rebecca S. Arthur, State-Certified General – Overland Park, KS

Wade Blasius, State-Registered – Kimball, SD

Robert J. Steele, State-Registered – Nemo, SD

Steven Zimmer, State-Registered – Montrose, SD

Review of Cases January 1-February 21, 2006

For the period January 1, 2006 through February 21, 2006 there has been 1 upgrade application and 6 complaints submitted to the Department.

Upgrades – 1 pending
Complaints – 6 pending

Frequently Asked Questions on the Appraisal Regulations and the Interagency Statement on Independent Appraisal Evaluation Functions

(Continued from the December/January and February/March issues of *The Real Estate View*)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration (the agencies) prepared this document in response to questions from federally regulated institutions (regulated institutions) on existing standards for selecting appraisers, ordering appraisals, accepting transferred appraisals, and other related topics. It should be reviewed in conjunction with the agencies' appraisal regulations, the "Interagency Appraisal and Evaluation Guidelines" (interagency guidelines), dated October 7, 1994, and the joint statement "Independent Appraisal and Evaluation Functions" (independence statement), dated October 28, 2003.

19. Should all appraisals undergo a compliance review?

Answer: Yes, prior to a final credit decision, regulated institutions should perform a compliance review on all appraisals to confirm that they comply with the minimum appraisal standards as outlined in the agencies' appraisal regulations, the interagency guidelines, and the independence statement. Loan administration files should document this compliance review, which may be a checklist or narrative format. In addition, certain appraisals should be reviewed more comprehensively to assess the technical quality of the appraiser's analysis prior to making a final credit decision. The regulated institution should establish guidelines for a more detailed, technical review based on transaction risk, transaction size, or other criteria.

20. Can a regulated institution approve a loan subject to receipt and review of an

appraisal, or must the appraisal be obtained and reviewed prior to making the final decision?

Answer: A regulated institution may grant conditional approvals to prospective borrowers before obtaining an appraisal. However, a final credit decision or action should only occur after the regulated institution receives, reviews, and accepts the appraisal.

21. What qualifications would constitute a "qualified and adequately trained individual" for the purpose of conducting appraisal reviews?

Answer: Individuals who review appraisals as part of a regulated institution's internal compliance function should be independent of the transaction and possess the requisite education, expertise, and competence to perform the review commensurate with the complexity of the transaction.

[FDIC FIL-20-2005: Frequently Asked Questions. See <http://www.fdic.gov/news/news/financial/2005/fil2005a.html>]

Student Appraiser Guide

The Student Appraiser Guide has been developed by the Appraiser Qualifications Board of The Appraisal Foundation for student appraisers (those individuals who are new to the field) and for those who are changing from one real property appraiser credential to another. The guide will help to:

1. Better understand the requirements for becoming a credentialed appraiser;
2. Make you aware of how this regulatory system works;
3. Make you aware of the changes to minimum criteria that are effective in 2008;
4. Give you some tools to keep good records of your progress in meeting requirements; and
5. Provide additional resources to help answer your questions.

One of the many important items contained in the Student Appraiser Guide is the "Checklists". The Checklists provide an organized means of tracking your progress as you work toward an appraiser credential.

The requirements listed on the Checklists for the Trainee (State-Registered), Licensed Residential (State-

Licensed), Certified Residential (State-Certified Residential), and Certified General (State-Certified General) classifications conform to the January 1, 2008 AQB Appraiser Qualification Criteria.

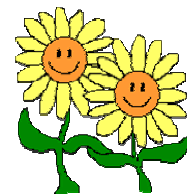
These Checklists are generic and may not meet all the requirements of an individual state. Make sure your final list includes your state's requirements.

Another very important item contained in the Student Appraiser Guide is the "Qualifying Education Course Matrix". The matrix will help you record your progress in completing Qualifying Education requirements for each credential level. The Required Core Curriculum modules are shown in gray shading. Subtopics listed in boxes without shading are not mandatory for meeting the required core curriculum. The listed subtopics indicate the content coverage expected under each module.

The first modules listed are the 75 class hours required for the Trainee classification. These modules are also required as students advance to the Licensed Residential, Certified Residential and Certified General classifications. The total number of qualifying education hours required for each classification is listed at the end of each section.

The Revised Appraiser Qualification Criteria include the Qualifying Education requirements and the Required Core Curriculum for each classification. Complete details can be found at www.appraisalfoundation.org. (New candidates and candidates wishing to upgrade to a higher classification will be required to maintain the Qualifying Education Course Matrix and submit it as part of the process to meet the qualifications required effective January 1, 2008.)

The Student Appraiser Guide is available at The Appraisal Foundation Website: www.appraisalfoundation.org. If you have any questions, please feel free to contact Sherry Bren, Appraiser Certification Program, 445 E. Capitol Ave., Pierre, SD 57501; telephone : 605.773.4608; or by e-mail : sherry.bren@state.sd.us.)



2008 AQB Criteria – What “current” appraisers should know!

(The following Letter from Ben Henson is reprinted from the AARO (Association Appraiser Regulatory Officials) News published December 2005. Mr. Henson is the Executive Director of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council which is the oversight agency for state appraiser regulatory programs.)

On February 20, 2004, the Appraiser Qualifications Board adopted changes to the Real Property Appraiser Qualifications Criteria (“AQB Criteria”) that will become effective on January 1, 2008. Many

appraisers who currently are licensed or certified by a state believe that the revised Criteria will affect only individuals who are seeking to enter the appraisal profession in the future. The belief is no correct.

While most appraisers have heard that the revised Criteria will require much more appraisal education and, in some cases, a college degree, many appraisers do not believe that they will be affected by the changes. There is one critical situation in which “current” appraisers would be affected by the 2008 AQB Criteria changes – upgrading from one credential classification to another.

An appraiser who currently holds an appraiser credential and wishes to upgrade to a different credential (e.g., Licensed to Certified Residential or Certified General; or Certified Residential to Certified General) must meet the AQB Criteria applicable to the new credential. For

example, currently an appraiser holding a Certified Residential credential wishing to upgrade to a Certified General credential would have to document 180 hours of acceptable education (an increase of 60 hours above the 120 hours documented to obtain the Certified Residential credential). Beginning in 2008, an appraiser in the same situation would have to document 300 hours of acceptable appraisal education, plus have a college degree or specified college course work in lieu of the degree.

Because more than 67% of State certified and licensed appraisers hold either the Licensed or Certified Residential credential, the 2008 AQB Criteria potentially could affect as many as two-thirds of all current appraisers, not just individuals newly entering the appraisal profession.

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